

REMARKS

Claims 1-10 were pending at the time of the Office Action. All stand rejected. Claims 1 and 7-10 are cancelled above; claims 2-5 are amended and new independent claim 11 and dependent claim 12 are presented.

The amendments made herein are necessitated by what appears to be an incorrect statement by the Examiner in both Office Actions that "Parsons discloses the basic claimed apparatus except for the use of a platen/anvil having a concave/convex relationship." The present invention teaches a different mechanism that, in the applicant's opinion, is patentable over Parsons '637 either with or without the correspondingly curved surfaces of the platen/anvil. For that reason, entry of the response after final rejection and allowance of the claim should not require any further searching that the Examiner failed to do in cursorily dismissing the basic claimed apparatus.

Change of attorney

The Examiner's attention in sending this Office Action to the newly-appointed attorney in this matter is graciously acknowledged.

Claim amendments

In reviewing the claims, applicant has determined that claims 1 and 7 as originally presented do not sufficiently distinguish Parsons '637, so both are cancelled.

A new independent claim 11 is presented to replace claim 1. This new claim is believed to distinguish Parsons '637 in a clear and non-obvious manner.

Although the Examiner states that "Parsons discloses the basic claimed apparatus except for the use of a platen/anvil having a concave/convex relationship," applicant does not believe that this is correct, and, in reviewing new independent claim 11, the Examiner should note the differences.

The Examiner is directed particularly to paragraph [010] of the application as filed, as well as to Figs 1 and 1A of the application as filed. These figures are based upon Figs 4 and 5 of Parsons '637.

Many features of the Parsons '637 device and the disclosed embodiment of the present application are identical or nearly so. However, the differences in the handle

operation are notable. In Parsons '637, the handle is not directly fixed to the base, as indicated at Col. 3, line 61 through Col. 4, line 14, where pivots A and D are both considered by Parsons to be "floating pivots." Parsons describes a triangle DAB that "collapses" as the handle is pushed downwardly. Since legs AD and AB are fixed in length, the "collapse" involves a lengthening of leg BD, or, put another way, the "collapse" involves an attempt to put pivot A into line DB. Parsons states that, if this were to occur, it would result in separation of the anvil from the base. Actually, it would seem at least as likely that the force would rupture the attachment of compression link 33 to the pin at pivot point A, as the pin would be urged outwardly in a direction axial to the compression link. To "alleviate" this problem, Parsons '637 provides a bumper 39 on fulcrum 23. When the handle contacts bumper 39, another triangle is set up; this second triangle being triangle AB39, with fixed legs 39B and AB and variable length leg A39 (handle 29 is not fixed to fulcrum 23 at bumper 39. Any further downward pressure on the grip end of handle 29 accentuates the force attempting to pull the pin out of the end of compression link 33 at point A.

But, in new claim 11, the mechanism is different. The compression link, platen and handle are all still present and coupled together, but the platen is "pivotally connected to the *compression link*" rather than to the *handle* and the handle is "pivotally connected to the *fulcrum member*" rather than to the platen. The triangle formed is shown in Fig 2 of the application as FGH, with only leg GH being fixed in length. As point G is pulled into an intermediate point along line FH by the movement of the handle, there are two legs of variable length that can accommodate the movement, reducing the stress on the pin at point G.

Accordingly, it is the applicant's position that the differences between the cited prior art and the claimed subject matter are significant and that the cited secondary reference does not supply any of the elements.

Because claim 11 does not present the limitation of the correspondingly curved contact surfaces, the cited secondary reference Wilbur '683 now becomes irrelevant to claim 11. teaches a device where "correspondingly shaped curved crushing surfaces" are used, However, with respect to claim 12, where the surfaces are claimed, they are used in a quite different manner. In Wilbur '683, the corresponding surfaces are

brought into proximity in an axially aligned manner, with one of the surfaces (the convex surface 15) rotating about the axis relative to the other surface. Because claim 11 requires that the claimed platen is “pivotally connected directly or indirectly to the base at a first pivot point near a first end of the anvil and pivotally connected to the compression link at a second pivot point”, the inherent action of the corresponding surfaces in claim 12 is that the axes will be in a varying angularity as the surfaces are brought into proximity. See, for example, the mention of the “rolling crushing force” at paragraph [007], as well as further discussion at paragraphs [030] and [034].

Claims 2-5 are amended to change their dependency from claim 1 to claim 11.

Rejection under 35 USC §102(b)

The prior rejection of claim 7 as anticipated by either Janzen '509 or Wilbur '683 is not repeated and is deemed to be withdrawn. It is believed that, in withdrawing the rejection, the Examiner has acknowledged that Janzen '509 cannot operate as prior art in this case, since it was filed after the effective filing date of the application.

Rejection under 35 USC §103(a)

The Examiner has repeated a rejection of claims 1-10 as obvious over a combination of Parsons '637 and Wilbur '683. Applicant respectfully traverses.

The Examiner states in the most recent Office Action that the only teaching of Wilbur '683 that is being used in combination with Parsons '637 is the concave/convex crushing arrangement of the platen and anvil, with the Examiner positing that he sees no reason why this modification cannot be made to ensure that a tablet captured between these elements is appropriately crushed. Applicant does not agree.

In the “Summary of the Invention”, the applicant points out that the mechanism of the present invention is different than that of Parsons '637. In rejecting claim 1, the Examiner has not considered these differences, which are not expressly included in claim 11. The Examiner is referred to the section above regarding claim amendments, where these differences are discussed.

Respectfully submitted,

Dated: 5 May 2008

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Ser No 10/673,301

Response after Final Rejection of 28 March 2008

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